

CALIFORNIA STATE PERSONNEL BOARD MEETING

Public Session Location - 801 Capitol Mall
Sacramento, California, Room 150
Videoconference – 320 West 4th Street¹
Los Angeles, CA, Suite 620

Closed Session Location - 801 Capitol Mall
Sacramento, California Room 141
Videoconference - 320 West 4th Street
Los Angeles, CA, Suite 620

MID-MONTH MEETING SUMMARY MINUTES²

NOVEMBER 16, 2004

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

Members Present:

William Elkins, President
Ron Alvarado, Vice President
Maeley Tom, Member
Anne Sheehan, Member

2. REPORT OF THE EXECUTIVE OFFICER Floyd Shimomura, Executive Officer State Personnel Board

¹ Pursuant to Government Code section 11123, a videoconference was conducted for this meeting at 320 W. 4th Street, Los Angeles, CA.

²The Summary Minutes can be obtained at the following Internet address:
<http://www.spb.ca.gov/calendar.htm>

The Board was advised of the following:

- A. There will be a meeting with the State and Consumer Services Agency in late November on a redraft of AB 2275 in light of the Governor's veto message.
 - B. The Cooperative Personnel Services, Human Resources Services, has announced that starting in January, it intends to offer many of the classes previously offered by the Department of Personnel Administration at the now closed State Training Center.
 - C. At the December 1, 2004, Board meeting in San Francisco, the Board will hold an informational hearing on recent changes to the disciplinary process in the Department of Corrections (CDC). The hearing will cover the CDC's new disciplinary "matrix", its "vertical advocacy program" system, and the recent audit report of the State Auditor.
 - D. The State Personnel Board staff concluded a successful "United Way" campaign with nearly 70% participation.
 - E. The Secretary Of State audit has been completed and a draft report is expected by the December 1, 2004 meeting.
3. REPORT OF THE CHIEF COUNSEL – Elise Rose

The Chief Counsel reported on the following:

- A. Connerly v. SPB - Hearing set for November 30, 2004, on a motion to accelerate time for hearing on petition for writ of mandate to enforce attorney's fees award.
- B. Moore v. SPB/Caltrans - Writ denied for failure to serve upon SPB within one year.
- C. Cornwell v. SPB/CHP - Hearing set for November 19, 2004, in superior court on cross petitions for writs of mandate. SPB had dismissed charges as untimely and ordered reinstatement; appellant filed writ to compel reinstatement and CHP filed to challenge dismissal of charges.

- D. Ortega v. State - Court of Appeal decision issued, affirming grant of summary judgment in favor of SPB and other defendants.
 - E. Esquivel v. SPB/CDC - Unpublished decision out of Fourth Appellate District issued affirming trial court ruling upholding SPB decision overturning dismissal of correctional officer for failure of proof.
 - F. State Employee Mediation Program - Cynthia Castillo, formerly with the Department of Justice, has been selected to be the new Director of Mediation.
4. NEW BUSINESS
- No New Business.
5. REPORT ON LEGISLATION – Sherry Hicks
- No report given.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

6. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES
- The Board deliberated on matters submitted at prior hearings; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by the administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653.]
7. PENDING LITIGATION
- As discussion of pending litigation in open session would be prejudicial, the Board conducted closed session conferences with legal counsel and received advice as necessary regarding pending litigation as listed in the agenda. [Government Code Sections 11126 (e)(1), 18653.]

8. RECOMMENDATIONS TO THE LEGISLATURE
The Board deliberated on recommendations to the Legislature. [Government Code Section 18653.]
9. RECOMMENDATIONS TO THE GOVERNOR
The Board deliberated on recommendations to the Governor. [Government Code Section 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

10. DISCUSSION OF COMING BOARD MEETING SCHEDULE OF DECEMBER 1-2, 2004, IN SAN FRANCISCO, CALIFORNIA

BOARD ACTIONS

11. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF NOVEMBER 3, 2004

ACTION: Adopted on November 16, 2004

VOTE: Elkins, Alvarado, Tom and Sheehan - Aye

12. ACTION ON SUBMITTED ITEMS
(See Minutes Page 20)
These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those cases are listed separately by category on this agenda under Evidentiary Cases.

13. EVIDENTIARY CASES
The Board Administrative Law Judges conducts Evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

On November 16, 2004, the Board adopted by majority vote (Elkins, Alvarado, Tom and Sheehan) in the cases indicated below, the following decisions presented by Elise Rose, Chief Counsel, State Personnel Board.

A. BOARD CASES SUBMITTED

These cases have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting.

ANN R. ABIERAS, CASE NO. 04-0531A AND
EVELYN B. CORPUS, CASE NO. 04-0529A
Appeal from ten-percent reduction
in salary for twelve months
Psychiatric Technician Assistant
Department of Developmental Services
NO ACTION

NICHOLAS COMAITES, CASE NO. 03-0062A
Appeal from official reprimand
Correctional Counselor II
Department of Corrections
AND
PAUL WARD, CASE NO. 03-0332A
Appeal from official reprimand
Correctional Administrator
Department of Corrections
NO ACTION

DEBRA GREENE, CASE NO. 03-0621A
Appeal from dismissal
Motor Vehicle Field Representative
Department of Motor Vehicles
NO ACTION

CONNIE JOHNSON, CASE NO. 03-2620R
Appeal from 30-calendar-days suspension
Employment Program Representative
Employment Development Department

VIRGINIA PARKER, CASE NO. 03-0325A
Appeal from demotion
Correctional Lieutenant
Ironwood State Prison – Blythe
Department of Corrections
NO ACTION

RICARDO RODRIGUEZ, CASE NO. 04-0096E

Appeal of discrimination

Heavy Equipment Mechanic

California Men's Colony – San Luis Obispo

Department of Corrections

ACTION: The Board adopted the proposed decision granting appeal of discrimination.

PEARLIE BLEDSOE-TOWNES, CASE NO. 03-2966A

Appeal from denial of request for reasonable

Accommodation

Correctional Sergeant

Central California Women's Facility – Chowchilla

Department of Corrections

NO ACTION

DENNIS UYEDA, CASE NO. 03-2396A

Appeal from five-working-days suspension

Latent Print Analyst II

Department of Justice

NO ACTION

GARY WHALEY, CASE NO. 03-1420A

Appeal from discrimination

Employment Program Representative

Employment Development Department

NO ACTION

B. CASES PENDING

- Oral Arguments

These cases are on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

NONE

C. CHIEF COUNSEL RESOLUTIONS

GEORGE WOODS, CASE NO. 01-1908

Appeal from demotion

Chief Engineer I

California Institution for Women – Corona

Department of Corrections

ACTION: Retracted from agenda by State Personnel Board staff, not for Board consideration.

- Court Remands

These cases have been remanded to the Board by the court for further Board action.

GARY GARFINKLE, CASE NO. 32689

Appeal from dismissal

Deputy Attorney General IV

Department of Justice

ACTION: The Board adopted a resolution vacating a portion of its prior decision and remanding the case for further proceedings.

- Stipulations

These stipulations have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

NONE

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

- Proposed Decisions

These are ALJ proposed decisions submitted to the Board for the first time.

EUGENE BOVA, CASE NO. 04-0909

Appeal from five-percent reduction

in salary for three pay periods

Plumber III (CF)

Deuel Vocational Institution – Tracy

Department of Corrections

ACTION: Sustained five-percent reduction in salary for three pay periods.

BRYAN GLOVER, CASE NO. 04-1809

Appeal from dismissal

Caltrans Equipment Operator

Department of Transportation

ACTION: Sustained dismissal.

JUDITH JONES, CASE NO. 03-1339 AND
04-0711

Appeal from five-percent reduction in
salary for five months

AND

Appeal from suspension for 20-work-days
Public Safety Dispatcher II

Department of California Highway Patrol

ACTION: Modified five-percent reduction in
salary for five months to formal reprimand and
modified 20-work-days suspension to 10-work-
days suspension.

DON TASHIMA, CASE NO. 04-1288

Appeal from five-percent reduction
in salary for one pay period

Fire Captain A

Department of Forestry and Fire Protection

ACTION: Sustained five-percent reduction in
salary for one pay period..

DON VASQUEZ, CASE NO. 04-1028

Appeal from five-percent reduction
in salary for six months

Correctional Officer

Deuel Vocational Institution - Tracy

Department of Corrections

ACTION: Sustained five-percent reduction in
salary for six months.

- Proposed Decisions Taken Under Submission
At Prior Meeting

These are ALJ proposed decisions taken under
submission at a prior Board meeting, for lack of
majority vote or other reason.

Proposed Decisions After Board Remand

NONE

- Proposed Decisions After SPB Arbitration

NONE

E. PETITIONS FOR REHEARING

- ALJ Proposed Decisions Adopted By The Board

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

DONALD COBB, CASE NO. 04-0976P
Appeal from one-step reduction in salary for ten months
Transportation Engineer (Civil)
Department of Transportation
ACTION: Petition filed by appellant denied.

RHONDA DAVIS, CASE NO. 04-1161P
Appeal from rejection during probationary period
Disability Evaluation Analyst
Department of Social Services
ACTION: Petition filed by appellant denied.

MARIA MCFARLIN, CASE NO. 02-2916P
Appeal from rejection during probationary period
Staff Services Analyst (General)
Department of Health Services
ACTION: Petition filed by appellant denied.

- Whistleblower Notice of Findings
The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

NONE

F. PENDING BOARD REVIEW

These cases are pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

DANNY BOYD, CASE NO. 03-1537A
Appeal from dismissal
Youth Correctional Officer
Department of Youth Authority
Pending Oral Argument December 1-2, 2004

JENNIFER CADY, CASE NO. 03-3390E
Appeal from denial of request for
reasonable accommodation
Deputy Attorney General IV
Department of Justice
NO ACTION

SHARON COHEN, CASE NO. 03-3390E
Appeal from denial of request for
reasonable accommodation
Deputy Attorney General IV
Department of Justice
NO ACTION

JOHN A. CRUZ, CASE NO. 04-1376
Appeal from 60-calendar-days suspension
Automotive Equipment Operator I
California Department of Veterans Affairs
NO ACTION

NESSLIN CRUZ, CASE NO. 03-1824
Appeal from ten-work-day suspension
Employment Program Representative
(Permanent Intermittent)
Employment Development Department
NO ACTION

PRISCILA CRUZ, CASE NO. 04-0554E
Appeal from discrimination complaint
Clinical Laboratory Scientist
California Medical Facility - Vacaville
Department of Corrections
NO ACTION

DON DOWLING, CASE NO. 04-1482 AND
ROGER HANSON, CASE NO. 04-1523
Appeals from dismissal
Police Officer I
Department of Developmental Services
Department of Justice
NO ACTION

JOE W. JORDAN, CASE NO. 04-0393
Appeal from dismissal
Youth Correctional Counselor
Department of Youth Authority
NO ACTION

DOREATHA FLEMING, CASE NO. 03-2274
Appeal from dismissal
Motor Vehicle Field Representative
Department of Motor Vehicles
NO ACTION

JOHN FLORES, CASE NO. 03-2588EA
Appeal of discrimination/retaliation
Hospital Peace Officer I
Department of Mental Health
NO ACTION

RICHARD HARMON, CASE NO. 03-3739
Appeal from dismissal
Psychiatric Technician Assistant
Department of Developmental Services
Pending Oral Argument December 1-2, 2004

ROYCE HENSON, CASE NO. 02-3501E
Appeal from retaliation complaint
Staff Services Manager II (Supervisor)
Department of Forestry and Fire Protection
Pending Oral Argument December 1-2, 2004

HAJI JAMEEL, CASE NO. 04-0330
Appeal from dismissal
Supervising Transportation Engineer
California Public Utilities Commission
NO ACTION

EDWARD LIMON, CASE NO. 04-0233
Appeal from dismissal
Parole Agent I
Department of Youth Authority
Pending Oral Argument December 1-2, 2004

KIM RITTENHOUSE, CASE NOS. 03-3541A &
03-3542A
Appeal from denial of reasonable accommodation
and from constructive medical termination
Office Technician (General)
Department of Fish and Game
NO ACTION

SAMUEL SWEENEY, CASE NO. 04-0794
Appeal from 20-calendar-days suspension
Correctional Officer
California Institution for Men – Chico
Department of Corrections
NO ACTION

ANTHONY VEGAS, CASE NO. 03-2204
Appeal from dismissal
Parole Agent I (Adult Parole)
Department of Corrections - Stockton
NO ACTION

14. RESOLUTION EXTENDING TIME UNDER GOVERNMENT
CODE SECTION 18671.1 EXTENSION
(See Minutes Page 21-23)

15. NON-EVIDENTIARY CASES
On November 16, 2004, the Board adopted by majority vote
(Elkins, Alvarado, Tom and Sheehan) the following decisions
presented by Laura Aguilera, Assistant Executive Officer,
State Personnel Board.

A. WITHHOLD APPEALS

Cases heard by a Staff Hearing Officer, a managerial
staff member of the State Personnel Board or
investigated by Appeals Division staff. The Board will
be presented recommendations by a Staff Hearing
Officer or Appeals Division staff for final decision on
each appeal.

CHRISTOPHER BLAKELY, CASE NO. 04-0483

Classification: Correctional Officer

Department: Corrections

ACTION: DENIED

ROBERT BURNSIDE, CASE NO. 04-0120

Classification: Correctional Officer

Department: Corrections

ACTION: DENIED

DONALD CROW, CASE NO. 04-0738

Classification: Correctional Officer

Department: Corrections

ACTION: DENIED

GARY DOUGHERTY, CASE NO. 04-0045

Classification: Correctional Officer

Department: Corrections

ACTION: DENIED

PATRICE FULGHAM, CASE NO. 04-0044

Classification: Correctional Officer

Department: Corrections

ACTION: DENIED

ARMOND HAYRAPETIAN, CASE NO. 04-0126

Classification: Correctional Officer

Department: Corrections

ACTION: GRANTED

WILL HOWARD, CASE NO. 04-0306

Classification: Correctional Officer

Department: Corrections

ACTION: DENIED

JOSEPH JONES, CASE NO. 04-0040

Classification: Correctional Officer

Department: Corrections

ACTION: DENIED

ALBERTO MADRID, CASE NO. 04-0595

Classification: Correctional Officer

Department: Corrections

ACTION: DENIED

RAYMOND MARTINEZ, CASE NO. 03-3553

Classification: Correctional Officer

Department: Corrections

ACTION: DENIED

TONIE RATLIEFF, CASE NO. 03-3641

Classification: Pre-Licensed Psychiatric Technician

Department: Developmental Services

ACTION: DENIED

VERNON ROGERS, CASE NO. 04-0221

Classification: Correctional Officer

Department: Corrections

ACTION: DENIED

STEVEN SCHERMERHORN, CASE NO. 04-0048

Classification: Correctional Officer

Department: Corrections

ACTION: DENIED

KENNETH SHIELDS, CASE NO. 04-0047

Classification: Correctional Officer

Department: Corrections

ACTION: DENIED

MARK SPRINGER, CASE NO. 04-0219

Classification: Correctional Officer

Department: Corrections

ACTION: DENIED

B. MEDICAL AND PSYCHOLOGICAL SCREENING
APPEALS

Cases heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board will be presented recommendations by a Hearing Panel on each appeal.

EDDIE AGOSTINI, CASE NO. 03-3184

Classification: Correctional Officer

Department: Corrections

ACTION: DENIED

BATRICE CLEMENTS, CASE NO. 03-3095
Classification: Medical Technical Assistant
Department: California Department of Corrections
ACTION: DENIED

JEFFREY DRESSER, CASE NO. 03-2487
Classification: State Park Ranger, Cadet
Department: Park and Recreation
ACTION: GRANTED

SUSAN ESSAYYAD, CASE NO. 03-3815
Classification: Cadet, CHP
Department: California Highway Patrol
ACTION: DENIED

MARY GALFAYAN, CASE NO. 03-3185
Classification: Correctional Officer
Department: Correctional Officer
ACTION: DENIED

MARTIN LEMUS, CASE NO. 03-1744
Classification: Cadet, Highway Patrol
Department: California Highway Patrol
ACTION: GRANTED

DAVID STAEBLER, CASE NO. 03-3639
Classification: Cadet, CHP
Department: California Highway Patrol
ACTION: DENIED

BRETT VAN METER, CASE NO. 03-2842
Classification: Cadet, CHP
Department: California Highway Patrol
ACTION: GRANTED

JUAN TOVAR, CASE NO. 03-1964
Classification: Correctional Officer
Department: Corrections
ACTION: DENIED

C. EXAMINATION APPEALS – NONE
MINIMUM QUALIFICATIONS - NONE
MERIT ISSUE COMPLAINTS - NONE

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

D. RULE 212 OUT-OF-CLASS APPEALS - NONE
VOIDED APPOINTMENT APPEALS
RULE 211 APPEALS - NONE

Cases heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board will be presented recommendations by a Staff Hearing Officer for final decision on each appeal.

(VOIDED APPOINTMENT APPEAL)

JESUS VENTURA, CASE NO. 03-1416

Classification: Senior Information Systems Analyst (Specialist)

Department: State Teachers Retirement System (STRS)

ACTION: DENIED

E. REQUEST TO FILE CHARGES CASES
PETITIONS FOR REHEARING CASES

Investigated by Appeals Division staff. The Board will be presented recommendations by Appeals Division staff for final decision on each request.

EDMUND PISAREK, CASE NO. 03-3734

Classification: Academic Instructor, CDC

Department: Corrections

ACTION: DENIED

JACKIE SPENCER, CASE NO. 03-2850

Classification: DWR employee retiree

Department: Water Resources

ACTION: DENIED

JACKIE SPENCER, CASE NO. 03-2851
Classification: DWR employee retiree
Department: Water Resources
ACTION: DENIED

- F. PSYCHOLOGICAL SCREENING CASES - NONE
Cases reviewed by Appeals Division staff, but no hearing was held. It is anticipated that the Board will act on these proposals without a hearing.

16. NON-HEARING CALENDAR

The following proposals are made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff. It is anticipated that the Board will act on these proposals without a hearing.

Anyone with concerns or opposition to any of these proposals should submit a written notice to the Executive Officer clearly stating the nature of the concern or opposition. Such notice should explain how the issue in dispute is a merit employment matter within the Board's scope of authority as set forth in the State Civil Service Act (Government Code Section 18500 et seq.) and Article VII, California Constitution. Matters within the Board's scope of authority include, but are not limited to, personnel selection, employee status, discrimination and affirmative action. Matters outside the Board's scope of authority include, but are not limited to, compensation, employee benefits, position allocation, and organization structure. Such notice must be received not later than close of business on the Wednesday before the Board meeting at which the proposal is scheduled. Such notice from an exclusive bargaining representative will not be entertained after this deadline, provided the representative has received advance notice of the classification proposal pursuant to the applicable memorandum of understanding. In investigating matters outlined above, the Executive Officer shall act as the Board's authorized representative and recommend the Board either act on the proposals as submitted without a hearing or schedule the items for a hearing, including a staff recommendation on resolution of the merit issues in dispute.

NONE

17. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

Staff has approved the following:

NONE

18. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY
ACTIVITY

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS
CURRENTLY UNDER CONSIDERATION

NONE

B. EXECUTIVE OFFICER DECISIONS REGARDING
REQUESTS TO ESTABLISH NEW CEA POSITIONS

(1) CHIEF, COMMUNICATIONS OFFICE

The State Board of Equalization's request to allocate the above position has been approved effective October 15, 2004.

(2) DEPUTY DIRECTOR, OFFICE OF PROBLEM
GAMBLING

The Department of Alcohol and Drug Program's request to allocate the above position has been disapproved effective October 13, 2004.

(3) DEPUTY DISTRICT DIRECTOR, PLANNING &
LOCAL ASSISTANCE PROGRAMS

The Department of Transportation's request to allocate the above position has been approved effective October 14, 2004.

(4) DEPUTY DISTRICT DIRECTOR, CENTRAL
REGION, ENVIRONMENTAL PLANNING

The Department of Transportation's request to allocate the above position has been approved effective October 14, 2004.

ACTION: Noted

19. WRITTEN STAFF REPORT FOR BOARD INFORMATION

NONE

20. PRESENTATION OF EMERGENCY ITEMS AS
NECESSARY

NONE

A D J O U R N M E N T

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC. Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002)

NO ACTION

2. VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES). Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002)

NO ACTION

3. TELEVISION SPECIALIST (SAFETY)
The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003)

NO ACTION

4. HEARING – PSC #04-03
Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Presented to Board August 12, 2004)

NO ACTION

5. HEARING - ELIGIBILITY OF DISMISSED STATE EMPLOYEES TO TAKE EXAMINATIONS
State Personnel Board staff is proposing to amend Rule § 211, to comply with Assembly Bill (AB) 577, Statutes of 2003, Chapter 836 which enacted Government Code § 18941. (Presented to Board August 12, 2004)

NO ACTION

6. HEARING -
Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004).

NO ACTION

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on November 16, 2004.

VOTE: Elkins, Alvarado, Tom and Sheehan – Aye.

FLOYD SHIMOMURA
Executive Officer
California State Personnel Board